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MAIL STOP APPEAL BRIEF-PATENTS

PATENTS
0512-1075

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:

Philippe BENEZECH et al. Confirmation No. 8355

Serial No. 09/993,713 GROUP 2684

Filed November 27, 2001 Examiner Tu X. Nguyen

ASSEMBLY COMPRISING A CABINET AND A SYSTEM FOR COMMUNICATING BY RADIOFREQUENCY WAVES WITH OBJECTS PLACED IN THE CABINET

APPEAL BRIEF

MAY IT PLEASE YOUR HONORS: September 7, 2005

(i) **Real Party in Interest**

The real party in interest in this appeal is the Assignee, JOUAN of Saint-Herblain, France.

(ii) **Related Appeals and Interferences**

Neither the appellants, appellants' legal representative nor the assignee know of any other prior or pending appeals, interferences or judicial proceedings which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(iii) **Status of the Claims**

Claims 1-10 are pending.

iv) **Status of Amendments**

There have been no amendments to the claims. The claims, as originally filed, are as set forth in the Claims Appendix.

(v) **Summary of Claimed Subject Matter**

Claims 1, 9, and 10 are independent.

With reference to Figure 1 of the application (shown immediately below), the subject matter of the independent claims is an assembly comprising i) a work cabinet (2) having walls (5) whose inside surfaces delimit a work space (9) adapted to receive an object (20), and ii) a communication system (3).

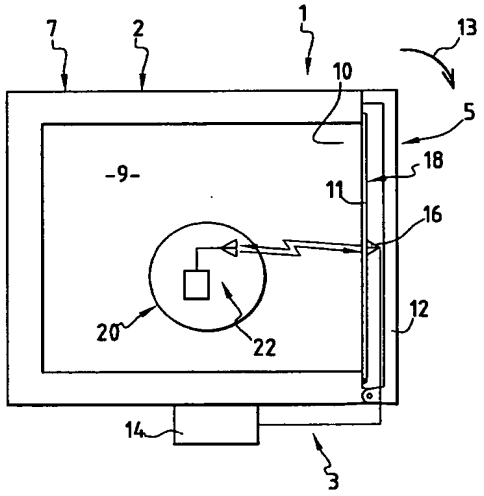

FIG.1

The communication system includes i) a first communication device (14), located outside the work space, communicating with ii) a second communication device (22),

located inside the work space and monitoring the object (20) inside the work space.

The first and second communication devices communicate with each other by radio frequency waves via an antenna (16). The antenna is connected to the first communication device and is separated from the work space by a wall part (11) that is transparent to the radio frequency used by the antenna. In this way, the antenna and first communication device may be located outside the work space yet receive communications from the second communication device monitoring the object within the work space since the signal may pass through the radio frequency transparent wall part (11).

The antenna may located exterior to the walls or within the walls as illustrated by Figure 2 with the transparent wall part being illustrated as a inside wall panel (24).

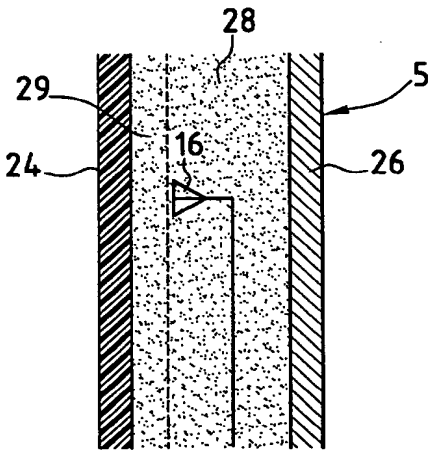

FIG.2

(vi) **Grounds of Rejection to be Reviewed on Appeal**

Whether the rejection of claims 1-10 under §103(a) as unpatentable over REBER et al. 5,969,606 ("REBER") was proper.

(vii) **Arguments**

The Independent Claims

The Examiner asserts that REBER renders obvious the invention as recited by the independent claims (Official Action dated February 7, 2005, beginning at page 3).

With reference to REBER Figure 1 (reproduced below), the Examiner offers the work cabinet (24) as having walls delimiting a work space adapted to receive an object (20). There is no disagreement as to this.

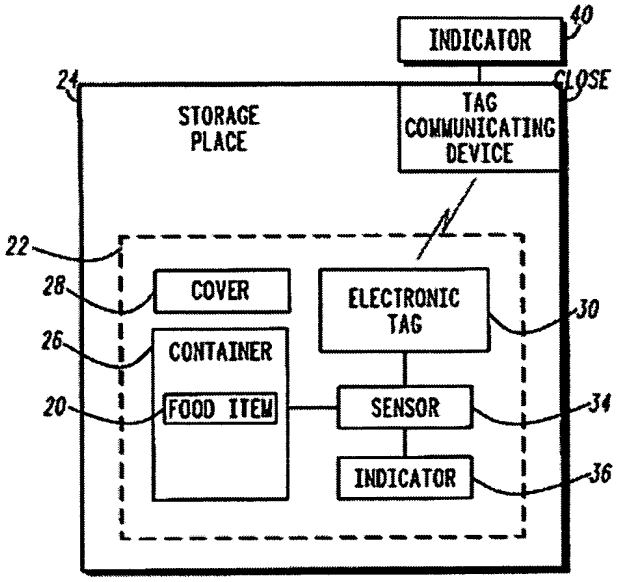

FIG.1

The Examiner offers the outside indicator (40) as the recited first communication device outside the work space and offers the electronic tag (30), associated with the sensor (34) monitoring the object (20), as the recited second communication device located inside the work space. There is also no disagreement as to this.

See that indicator (40) is associated with the electronic tag (32) located at the upper right-hand corner within the work space (but unnumbered in this figure).

For the recited antenna connected to the first communication device, the Examiner has referred to Figure 6 (reproduced below) illustrating a transmitter (86) and a receiver (88). See that the transmitter and receiver are within the container work space.

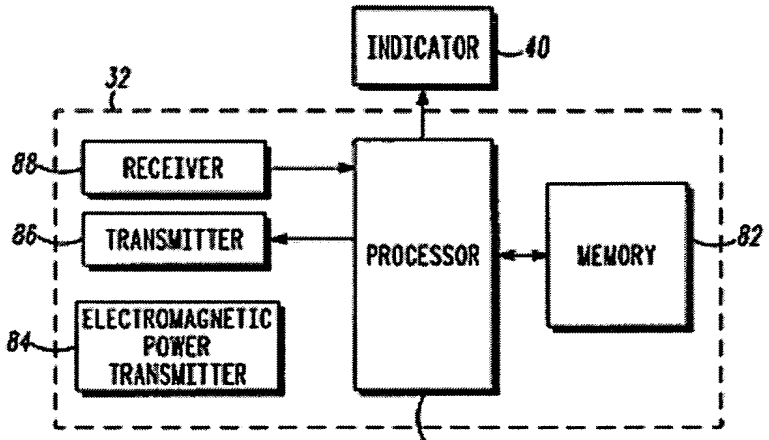

FIG.6

Thus, REBER positions the communication portions of the tag device 32 (including the antenna) within the work space and communicates to the indicator (40) via a wire (per Figures 1 and 6).

In contrast to REBER, the claims recite that a part of the wall that defines the work space is transparent to the radio frequency used by the antenna. Further, the claims recite that the antenna is separated from the work space by the radio frequency transparent wall part.

The Examiner has not recognized these recitations as structural limitations, because even though the Examiner has acknowledged that these features are not taught or suggested, the Examiner rejects the claims.

The Examiner acknowledges (in the last paragraph of Official Action page 3) that REBER does not disclose the

recited structure, i.e., that REBER does not disclose "a part of one of said walls of said work cabinet is transparent to a radio frequency used by said antenna, said antenna being separated from said work space by said at least a part of one of said walls."

Nor does the Examiner assert that the recited ***structure*** would be obvious.

Thus, there is no disagreement that the claim requires the antenna be outside the work space, separated therefrom by the transparent wall part.

There is also no disagreement that REBER discloses the antenna being inside the work space.

In the last two lines of the Official Action page 3, the Examiner asserts that "However, the antenna which being mounted between the walls [or outside the wall] has no different if the antenna being placed anywhere inside the storage."

This is clearly wrong both as to what is recited and achieving an operative apparatus.

If the antenna is mounted between the inside and outside panels of the wall (as shown in application Figure 2), but the inside panel is not radio frequency transparent, the system will not operate as the antenna of the first communication device will not receive the signal

from the second communication device.

Without a teaching of using a radio frequency transparent wall part, one of skill would not move the receiving antenna from the interior work space to outside the work space because the antenna would be rendered ineffective and the apparatus would not operate.

Clearly, the teaching of REBER is to place the tag communication device (32), including the antenna, within the work space and to connect to an exterior indicator (40) with a wire extending through the wall. Indeed, REBER fails to teach or suggest the recited invention and in fact teaches away from the claims.

Thus, since the recitation of a transparent wall and the recitation of an antenna of a first communication device being outside the work space are not taught or suggested by REBER, the independent claims are not rendered obvious.

The Dependent Claims

Claims 2-5 also recite structural features which the Examiner has acknowledged that REBER does not teach. Accordingly, these claims cannot be said to be obvious.

As to claims 9 and 10, REBER does not teach the recited RF transparent wall part and an antenna outside the work space and separated from the work space by the radio

frequency transparent wall part (as illustrated by Figure 2 above). Accordingly, these claims also cannot be said to be obvious.

Reversal of the obviousness rejection is accordingly respectfully requested.

(viii) **Claims Appendix**

A copy of the claims involved in the appeal.

(ix) **Evidence Appendix**

None.

(x) **Related Proceedings Appendix**

None.

Respectfully submitted,

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(viii) **Claims Appendix**

1. An assembly comprising:

a work cabinet having walls whose inside surfaces delimit a work space that is adapted to receive an object to be subjected to a chemical or physical condition; and

a communication system that includes a first communication device outside said work space, a radio frequency antenna connected to said first communication device, and a second communication device that is to be associated with the object in said work space, said first communication device communicating with said second communication device via said antenna,

wherein at least a part of one of said walls of said work cabinet is transparent to a radio frequency used by said antenna, said antenna being separated from said work space by said at least a part of one of said walls.

2. The assembly of claim 1, wherein said at least a part of one of said walls is an inside part of said one of said walls and wherein said antenna is in said one of said walls.

3. The assembly of claim 1, wherein said at least a part of one of said walls is an entire thickness of said

one of said walls and wherein said antenna is outside said one of said walls.

4. The assembly of claim 3, wherein said antenna is carried by said one of said walls.

5. The assembly of claim 1, wherein said one of said walls is movable between an open position that provides access to said work space and a closed position that bars access to said work space.

6. The assembly of claim 5, wherein said work cabinet comprises an inside door and an outside door, and wherein said inside door is said one of said walls.

7. The assembly of claim 1, wherein said at least a part of one of said walls comprises a partition and a layer of thermally insulating material.

8. The assembly of claim 1, wherein said second communication device is an identification transponder.

9. An assembly comprising:

a work cabinet that is thermostatically controlled

and that has walls whose inside surfaces delimit a work space that is adapted to receive an object ; and

a radio frequency communication system including an antenna that communicates by radio frequency waves with a communication device associated with the object in said work space,

at least a part of one of said walls being transparent to the radio frequency waves, said antenna being outside said work space and separated from said work space by said at least a part of one of said walls.

10. An assembly comprising:

a work cabinet that has walls whose inside surfaces delimit a work space that is adapted to receive an object to be subjected to a chemical or physical condition; and

a radio frequency communication system including an antenna that is carried by said work cabinet and that communicates by radio frequency waves with a communication device associated with the object in said work space,

at least a part of one of said walls being transparent to the radio frequency waves, said antenna being separated from said work space by said at least a part of one of said walls.